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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,832	10/20/2003	Harry J. Collins	CON40 348 DIV1	2008
43749	7590	08/30/2005		
CHRISTOPHER PARADIES, PH.D. FOWLER WHITE BOGGS BANKER, P.A. 501 E KENNEDY BLVD, STE. 1900 TAMPA, FL 33602			EXAMINER SLACK, NAKO N	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,832

Applicant(s)

COLLINS, HARRY J.

Examiner

Naoko Slack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36,38,39 and 72-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36,38,39 and 72-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

If view of newly cited prior art, the allowance of this application has been withdrawn and the prosecution reopened. Applicant's amendment after final received July 5, 2005 has been entered. Claims 1-35, 37 and 40-71 have been canceled, and new claims 73-80 have been entered. A new rejection of pending claims 36, 38, 39, and 72-80 is herein presented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 72-80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 72, lines 4-5, the narrow portion comprises substantially parallel longitudinal edges, each spaced from "the longitudinal axis" of the sheet; however, the exact location of the longitudinal axis has not been specified. There are plural longitudinal axes located along the length of the sheet. However, if applicant is referring to the central longitudinal axis of the sheet, then the word - - central - - or similar term could be inserted prior to "longitudinal axis" to identify this location. The specific location of the longitudinal axis becomes significant in claim 77, where the longitudinal axis is used to identify the location of each grid of apertures. Appropriate correction is required.

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Also in claim 72, lines 5-6, the longitudinal edges of the narrow portion are each "spaced from the longitudinal axis of said sheet a distance less than the longitudinal edges of said wide portions". The phrase " a distance less than" should be followed by a form of measurement. Specifically, the phrase compares the distance between the narrow portion's edge and the central longitudinal axis to "longitudinal edges". It is unclear which comparative distance applicant intends to define. Clarification is required.

Otherwise, if corrected of the indefinite language as explained above, it appears claim 80 is drawn to allowable subject matter.

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 36, 38, 39, 72, 75 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US Patent 4,688,358 to Madray.

Claim 36:

Madray discloses an elongated sheet of light gage metal, the sheet comprising along the length thereof one or more pairs of opposing notches (cut-outs adjacent narrow portion 72, Figure 2), the portion of the sheet intermediate each of the pairs of

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opposing notches forming a respective narrow portion, wherein at least one of the narrow portions includes a grid of apertures (86, Figure 2).

Claim 38:

Madray states that the web portions (72, Figure 2) are approximately six inches (column 9, lines 7-8).

Claim 39:

The grid of apertures includes at least twenty spaced apart apertures (86, Figure 2).

Claim 36 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by US Patent 5,884,448 to Pellock.

Claim 36:

Pellock discloses an elongated sheet of light gage metal, the sheet comprising along the length thereof one or more pairs of opposing notches (formed by bent back tabs 38 and 40, Figure 5), the portion of the sheet intermediate each of the pairs of opposing notches forming a respective narrow portion (tongue 34, Figure 5), wherein at least one of the narrow portions includes a grid of apertures (36, Figure 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 72-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,374,558 to Surowiecki in view of US Patent 4,688,358 to Madray.

Claims 72, 73, 76, 77:

Surowiecki discloses a structural member (10, Figure 1) formed from a blank comprising an elongated sheet of metal with at least two wide portions formed into ridges (17, Figure 1) and a narrow portion formed by cut-outs (18, Figure 1) between the wide portions, the narrow portion having substantially parallel longitudinal edges that engage a stud member (33 in phantom, Figure 1).

While Surowiecki fails to disclose a grid of apertures in the longitudinal edge of the narrow portion, Madray teaches structural members with plural aperture grids on all portions of the members for application of fasteners where structural members are connected (Figure 41). In particular, Madray teaches a grid of apertures along the longitudinal edge of member 450 (Figure 41) for attachment of the stud member (434) thereto.

In view of Madray, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a grid of apertures along the longitudinal edges of Surowiecki's narrow portion (Figure 1) to securely attach the structural member (10) to the upright stud member (33), as Surowiecki is concerned with providing a strong and precise connection between the stud and supporting beam, a

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connection that facilitates alignment, improves strength and impedes lateral movement (column 2, lines 21-25, 46-52).

Claims 74 and 75:

Madray states that the web portions (72, Figure 2) are approximately six inches (column 9, lines 7-8) and that the grid of apertures includes at least twenty spaced apart apertures (86, Figure 2).

Claims 78 and 79:

Madray's grids are symmetrical about the longitudinal axis of the member (Figure 43).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose current telephone number is 571-272-6848. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naoko Slack
Primary Examiner
Art Unit 3635

NS
August 22, 2005